

**Federal Defenders
OF NEW YORK, INC.**

Southern District
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November 8, 2022

By ECF

The Honorable Vernon S. Broderick
United States District Judge
Southern District of New York
40 Centre Street
New York, NY 10007

**Re: *United States v. Sayfullo Saipov*
(S1) 17 Cr. 722 (VSB)**

Dear Judge Broderick,

At docket entry 622, the defense filed a redacted version of its first omnibus challenge to the Government's penalty phase presentation in the above-captioned case. The un-redacted version was originally submitted by e-mail to the Court and the Government on October 18, 2022. *See* DE #614, 615. The defense respectfully requests that the Court authorize the defense to file the un-redacted version under seal and otherwise accept the proposed redactions. The Government consents to the redaction of certain victims' names from the ECF-filed version, and takes no position on the remainder of the redactions. The defense respectfully contends that the non-victim-related redactions are necessary to prevent the premature and public disclosure of sensitive information about Mr. Saipov.

Respectfully Submitted,

/s/

David Patton
Andrew J. Dalack
Sylvie J. Levine
Annalisa Mirón
David Stern
David A. Ruhnke

Counsel for Sayfullo Saipov

Cc: Government Counsel

Application denied without prejudice to renewal. There is a presumption of public access to anything that qualifies as a “judicial document,” i.e., a “filed item that is ‘relevant to the performance of the judicial function and useful in the judicial process.’” *Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 139 (2d Cir. 2016) (quoting *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006)). The presumption is “at its strongest” when “the information at issue forms the basis of the court’s adjudication.” *Liberty Re (Bermuda) Ltd. v. Transamerica Occidental Life Ins. Co.*, No. 04 Civ. 5044(NRB), 2005 WL 1216292, at *6 (S.D.N.Y. May 23, 2005) (citation omitted). Accordingly, on or before November 17, 2022, the Defense shall file a letter motion demonstrating, with legal authority, countervailing factors justifying the Defense’s proposed redactions to its omnibus challenge and to my Opinion & Order of October 7, 2022, and how those countervailing factors overcome the presumption in favor of public access to judicial documents.

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vernon S. Broderick", written over a horizontal line.

HON. VERNON S. BRODERICK
UNITED STATES DISTRICT JUDGE

11/10/2022